

# Order

Michigan Supreme Court  
Lansing, Michigan

December 15, 2006

Clifford W. Taylor,  
Chief Justice

131686

Michael F. Cavanagh  
Elizabeth A. Weaver  
Marilyn Kelly  
Maura D. Corrigan  
Robert P. Young, Jr.  
Stephen J. Markman,  
Justices

PEOPLE OF THE STATE OF MICHIGAN,  
Plaintiff-Appellee,

v

SC: 131686  
COA: 266593  
Oakland CC: 2003-190054-FC

DAVID JAMES MATHIS,  
Defendant-Appellant.

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On order of the Court, the application for leave to appeal the June 7, 2006 order of the Court of Appeals is considered and, pursuant to MCR 7.302(G)(1), in lieu of granting leave to appeal, we REMAND this case to the Court of Appeals for reconsideration of its order. We note that the defendant filed timely post-conviction motions and did not purport to file a motion for relief from judgment, and that the trial court did not address the defendant's motions under MCR 6.501 et seq. On remand, the Court of Appeals shall reconsider whether its order properly denied the defendant's delayed application for leave to appeal "for failure to meet the burden of establishing entitlement to relief under MCR 6.508(D)." Within 28 days of the date of this order, the Court of Appeals shall either reconsider the defendant's delayed application for leave to appeal under the standard applicable to direct appeals and decide whether it shall be granted, or submit to the Clerk of this Court, in writing, an explanation of why its order denied leave to appeal under MCR 6.508(D).

We retain jurisdiction.



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I, Corbin R. Davis, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

December 15, 2006

*Corbin R. Davis*

Clerk